

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:08CV364-01-MU

SAMMY MORGAN,  
  
Plaintiff,  
  
v.  
  
FAITH TILLMAN et al.,  
  
Defendants.

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**ORDER**

**THIS MATTER** comes before the Court for initial review upon Plaintiffs' Complaint pursuant to 42 U.S.C. § 1983, filed August 11, 2008.

In the instant Complaint Plaintiff alleges that on June 16, 2005, the Defendants "failed to follow policies and procedures concerning physically escorting [him] while hand and legs were shackled." Plaintiff further alleges that as a result his "knee 'gave out' which caused him to fall down the stairs." Plaintiff broadly asserts that he suffered in excess of ten thousand dollars worth of injuries. Plaintiff requests one million dollars in damages.

A review of this Court's files reveals that in 2006 Plaintiff filed a Complaint containing the same claim against Defendants Tillman and Shaw concerning the alleged incident on June 16, 2005. (3:06cv333). The 2006 case was dismissed for failure to state a claim. The principle of res judicata operates to bar further claims by parties or their privies based on the same cause of action that has been previously adjudicated on the merits. See Young-Henderson v. Spartanburg Area Mental Health Ctr., 945 F.2d 770, 773 (4<sup>th</sup> Cir. 1991). Consequently, the Court will dismiss Plaintiff's Complaint.

**IT IS THEREFORE ORDERED** that Plaintiff's Complaint is **DISMISSED** pursuant to  
28 U.S.C. § 1915(e).

Signed: August 20, 2008

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

